7   09/847,567 Balachandran 18-10-25-3-51

Remarks

Entry of the above-noted amendments, reconsideration of the application, and allowance of all claims pending are respectfully requested. By this amendment, claims 2, 4, 13, 23 and 24 are amended and claims 25-26 are added. These amendments to the claims constitute a bona fide attempt by applicants to advance prosecution of the application and obtain allowance of certain claims, and are in no way meant to acquiesce to the substance of the rejections. Support for the amendments can be found throughout the specification (e.g., page 4, lines 18-25). Claims 1- 26 are pending.

Applicants gratefully acknowledge the indication of allowability of claims 2 and 4-24.

Claim Rejection - 35 U.S.C. §102:

Claims 1 and 3 are rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,473,399 (Johansson). This rejection is respectfully traversed.

It is well-settled that there is no anticipation unless (1) all the same elements are (2) found in exactly the same situation and (3) are united in the same way to (4) perform the identical function. Since the applied reference is missing at least one element of applicants' independent claim 1, applicants respectfully submit that the claimed invention is not anticipated by the applied reference, as further discussed below.

For explanatory purposes, applicants discuss herein one or more differences between the applied reference and the claimed invention with reference to one or more parts of the applied reference. This discussion, however, is in no way meant to acquiesce in any characterization that one or more parts of the applied reference correspond to the claimed invention.

Claim 1 is directed to a method for a radio link control (RLC) that allows for at least partial recovery of a streaming service over a wireless communication channel. The play out time for each RLC block is determined as a function of block size, play out rate and allowed delay for each transmission. Recovery for an RLC block is aborted if the block is not received by a

respective play out time. The RLC blocks that have been received within the respective play out time are recovered.

With regard to the determining of a play out time in claim 1, it is important understand how "play out time" is to be interpreted in accordance with the specification. The play out time, as used in the specification and hence the meaning that must be attributed to this phrase in considering the claims, means a time at which information contained within an RLC block is to be transmitted from the RLC receiver to another destination, i.e. typically to another layer. See the specification, p. 4, lines 7-10. Stated another way, play out time is the time at which the recovered information must be transmitted to stay in time sequence with a flow of information being transmitted.

In the Office Action the determining step of claim 1 was said to be anticipated and hence analogous to the retransmit time set in EPC timer 94, that corresponds to a time that compensates for the round-trip propagation delay of a retransmission request and an initial response, the processing time in the transmitter in receiver, and the frame structure. Reference was made to Johansson at column 7, lines 23-35. Applicants agree that Johansson describes the use of an EPC timer and an EPC counter that are associated with retransmission requests. However, the "play out time" of claim 1 is not equal to or even analogous to the EPC timer or the value stored in the EPC timer of Johansson. In Johansson, the value stored in the EPC timer corresponds to a time within which a retransmitted block of information is expected to have been received at the receiver. Even if a person knew the value stored in the EPC timer, that person would not be able to determine the play out time associated with a receiver since the value stored in the EPC timer is only associated with the time of receipt of a retransmission of a block of data, and not associated with a time within which the corresponding block of data must be delivered by the receiver to another destination. Hence, the determining of a play out time in accordance with claim 1 is not anticipated by, nor rendered obvious, by Johansson.

The step of aborting recovery in claim 1 states that the recovery of an RLC block is aborted if the RLC block is not received by a respective play out time thereof, i.e. not received by the respective play out time required for the corresponding RLC block. In the Office Action this

step was said to be anticipated by the error PDU detection by EPC counter and a new retransmission request sent requesting the retransmission of the outstanding PDUs. Reference was made to Johansson, column 7, line 64-column 8, line 4. This text reads:

> However, if one or more of the PDUs requested to be retransmitted have not been received correctly as determined by the detection and analysis block 96, the EPC 92 and EPC timer 94 are reset. In addition, a new retransmission request is sent requesting that these outstanding PDUs be retransmitted (again). The EPC timer 94 is again started, and the process described above is repeated.

It will be noted that the above quoted language does not describe a process for aborting the recovery of a needed block of data. In fact, it teaches just the opposite, i.e. it teaches that repeated attempts using repeated retransmission requests are to be used in an attempt to obtain a valid receipt of the block of data. That is, it describes a process that does not give up on trying to obtain a valid block of data. This is in fact opposite to the requirement of the aborting recovery step of claim 1 in which attempts to recover a valid RLC block is terminated (aborted) if the RLC block is not received by its respective play out time. Johansson does not provide such a teaching or suggestion, and hence claim 1 is not anticipated by this reference.

Dependent claim 3 should be allowable since it depends on claim 1 that is allowable as explained above.

New claim 25 further defines the step of determining a playoff time as being performed by an RLC receiver. Further, the play out time is defined as being a time at which information contained in the RLC block is to be transmitted from the RLC receiver to another destination. This requirement is not taught or suggested by Johansson.

New claim 26 defines the step of aborting recovery as being performed at an RLC receiver and further defines the aborting step as including the step of generating a signal for transmission to an RLC transmitter that originated the RLC block, where the signal indicates that no further retransmission attempts of the RLC block are to be made by the RLC transmitter. The Johansson reference provides no comparable teaching.
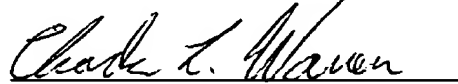
Pursuant to MPEP 706.07(c), it would be inappropriate to make an Office Action final should new references be applied in support of a rejection of any unamended (original) claim since no amendments to these claims are present to necessitate a change of position.

In view of the above amendments and remarks, allowance of all claims pending is respectfully requested. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney.

Respectfully submitted,

Charles L. Warren
Attorney for Applicants
Reg. No. 27,407

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PATTI & BRILL, LLC
Customer Number 47382